IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 18960 of 2004

Between:

Devareddy Srilakshmi, W/o. Devareddy Srinivasulu Reddy,
R/o. Patimitta Village, Nellore District.

..... PETITIONER

AND

1 The Joint Collector Cum Settlement Officer, Nellore District.
2 The Special Commissioner & Director of Settlements, Government of Andhra Pradesh, Hyderabad.
3 The Mandal Revenue Officer, Ozili Mandal, Nellore District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus declare the orders passed by the 1st Respondent in D.Dis (E10)/3608/2004, dated 20-8-2004 as illegal and arbitrary as opposed to principles of natural justice, by striking down G.O.Ms.No. 400 Revenue (J.A) Department dated 24-4-1993 by holding it to be illegal, arbitrary, opposed to principles of natural justice, unconstitutional and consequently direct the 1st Respondent to consider the legitimate claim of the Petitioner for a Ryotwari Patta.

Counsel for the Petitioner:MR.SIVARAJU SRINIVAS

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following ORDER:

The petitioner filed the present writ petition challenging the order passed by the first respondent-Joint Collector-cum-Settlement Officer, Nellore District, in refusing to condone the delay for filing the appeal/application on the ground that in G.O.Ms.No.400, Revenue (J.A.) dated 24-04-1993, the second proviso to sub rule (4) of Rule 2 of rule 2 of the Andhra Pradesh (Andhra Area) Estates (Abolition & Conversion into Ryotwari) Grant of Ryotwari patta Rules, 1973, has been deleted, which is arbitrary and illegal.

It is well settled that in the process of legislative competence, natural justice has no role to play since deletion of a particular proviso from the statute book is only a legislative process.

It is not the case of the petitioner that the respondents should not have legislative competence to delete such provision and the law made by the State legislature can be struck down by Courts only on two grounds namely, lack of legislative competence and violation of any of the fundamental rights guaranteed in part III of the Constitution or of any other constitutional provision and there is no third ground as held by the Apex Court in ***STATE OF A.P. AND OTHERS v. MC.DOWELL AND COMPANY AND OTHERS***.

In view of the same, I do not see any ground to entertain the writ petition. However, the petitioner is at liberty to file an appeal against the order passed by the first respondent before the appellate authority and on filing such an appeal, it is for the appellate authority to consider whether the claim of the petitioner can be considered

or not irrespective of the deletion of the above rule and whether the first respondent is justified in refusing to condone the delay. The petitioner can as well avail the remedy under proviso to section 3 of the A.P. (Andhra Area) Estates (Abolition & Conversion into Ryotwari) Act, 1948.

The writ petition is accordingly dismissed. No costs.

16th NOVEMBER, 2004.

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To

1 The Joint Collector Cum Settlement Officer, Nellore District.
2 The Special Commissioner & Director of Settlements, Government of Andhra Pradesh, Hyderabad.
3 The Mandal Revenue Officer, Ozili Mandal, Nellore District.

4 Two CCs to the Government Pleader for Revenue, A.P.High Court Buildings, Hyderabad (OUT).

5 Two CD copies.